

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$9,061.67 for date of service 10/08/01.
- b. The request was received on 03/22/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 05/16/02
 - b. HCFA(s)
 - c. TWCC 62
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 06/03/02
 - b. HCFA(s)
 - c. TWCC 62
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 05/22/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 05/24/02. The response from the insurance carrier was received in the Division on 06/03/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

“Recently, we have had an exact case filed with the TWCC Medical Dispute and the judge allowed a total of \$9,061.67 for performing the anterior extraperitoneal exposure of vertebral bodies L4-L5, L5-S1. We are enclosing such findings from the Judge for your review. On the above named patient, (Carrier) has made no payment for the anterior extraperitoneal exposure of vertebral bodies L4-L5, L5-S1.

This is incorrect has[sic] you can determine from the Judge’s decision:

‘The Provider demonstrated that unique skill and responsibility were necessary in exposing the spine for the fusion surgery. The Provider’s skills as a vascular surgeon are not related to the orthopedic surgery, and he is entitled to bill under-62 suffix as a second surgeon, instead of co-surgeon.

The Claimant’s fusion surgery required skill of two surgeons, both vascular surgeon and orthopedic surgeon, and the Provider appropriately billed as a second surgeon using CPT code suffix-62.

The Provider appropriately billed the Carrier under CPT code for two unlisted vascular procedures performed by a second surgeon.

A fair and reasonable fee for the vascular surgery performed by the Provider is \$9061.67.”

2. Respondent:

“The provider billed a miscellaneous code CPT 37799-62 to represent an anterior extraperitoneal exposure of vertebral bodies L4-L5, L5-S1. The Texas Fee Schedule addresses reimbursement of this procedure on pg. 65 E. 2. D. states “When anterior arthrodesis is performed by a different surgeon, both surgeons bill using the anterior arthrodesis CPT modifier –65”. Per this rule, (Surgeon) should have billed CPT code 22558-65 which would have reimbursed him as follows:

\$2660.00(MAR for CPT 22558) x 75% (for use of co-surgeon modifier 65) = \$1995.00.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 10/08/01.
2. The denials listed on the EOBs are “G X815- THIS PROCEDURE IS INCIDENTAL TO THE PRIMARY PROCEDURE, AND DOES NOT WARRANT SEPARATE REIMBURSEMENT.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

| DOS | CPT or Revenue CODE | BILLED | PAID | EOB Denial Code(s) | MARS | REFERENCE | RATIONALE: |
|---------------|---------------------|-------------|--------|--------------------|------|--|--|
| 10/08/01 | 37799-62 | \$8,500.00 | \$0.00 | G | DOP | MFG SGR (I)(3) -62 Modifier descriptor | <p>“Two Surgeons: Under certain circumstances, the skills of two surgeons (usually with different skills) may be required in the management of a specific surgical procedure. In these circumstances, add the modifier “-62” to the procedure code used for reporting services by each surgeon. DOP is required.” Medical documentation indicates that the services performed were by a second surgeon, not a co-surgeon, who specializes in vascular surgeries and not orthopedic surgeries.</p> <p>This procedure is not global to the listed CPT code 22558-65 as stated by the Carrier in their position statement. This is a separate procedure performed by a vascular surgeon and not an orthopedic surgeon.</p> <p>Therefore, reimbursement is recommended in the amount of \$6,861.67 as listed in the Table of Disputed Services.</p> |
| 10/08/01 | 37799-51 | \$3,500.00 | \$0.00 | G | DOP | MFG SGR (I)(3) -51 Modifier descriptor | <p>“Multiple Procedures: When multiple procedures are performed on the same day or at the same operative session, the major procedure or service is billed as listed. For the secondary additional, or lesser procedure(s) or service(s), add modifier-51.”</p> <p>This procedure is not global to the listed CPT code 22558-65 as stated by the Carrier in their position statement. This is a separate procedure performed by a vascular surgeon and not an orthopedic surgeon.</p> <p>Therefore, reimbursement is recommended in the amount of \$2,200.00 as listed in the Table of Disputed Services.</p> |
| Totals | | \$12,000.00 | \$0.00 | | | | The Requestor is entitled to additional reimbursement in the amount of \$9,061.67 . |

The above Findings and Decision are hereby issued this 9th day of October 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$9,061.67 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 9th day of October 2002.

Carolyn Ollar
Supervisor Medical Dispute Resolution
Medical Review Division